

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 11974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b> <b>WILLETTE HILL</b>  <b>(b) County of Residence of First Listed Plaintiff</b> <u>PHILADELPHIA</u> (EXCEPT IN U.S. PLAINTIFF CASES)  <b>(c) Attorney's (Firm Name, Address, and Telephone Number)</b> ROBERT P. COCCO, P.C. 1500 WALNUT ST., SUITE 900 PHILADELPHIA, PA 19102      215-351-0200	<b>MIDLAND FUNDING LLC et al.</b> County of Residence of First Listed <u>NEW YORK</u> (IN U.S. PLAINTIFF CASES) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.  Attorneys (If Known) <u>14 2075</u>
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<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width: 100%;"> <tr> <td style="width: 50%;">           Citizen of This State <input type="checkbox"/> 1            Citizen of Another State <input type="checkbox"/> 2            Citizen or Subject of a Foreign Country <input type="checkbox"/> 3         </td> <td style="width: 50%;">           DEF <input type="checkbox"/> 1            DEF <input type="checkbox"/> 2            DEF <input type="checkbox"/> 3            Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4            Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5            Foreign Nation <input type="checkbox"/> 6         </td> </tr> </table>	Citizen of This State <input type="checkbox"/> 1 Citizen of Another State <input type="checkbox"/> 2 Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	DEF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 3 Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 Foreign Nation <input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)					
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgments Act <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury Med. Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 U.S.C. <input type="checkbox"/> 630 Liquor Law <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (13 95 ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405 (g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS -Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Force Insure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

<b>V. ORIGIN</b> <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 (specify) _____ <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Magistrate Judgment	(PLACE AN "X" IN ONE BOX ONLY) <input type="checkbox"/> Transferred from another district <input type="checkbox"/> Appeal to District Judge from <input type="checkbox"/> Appeal to Magistrate Judgment
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**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 U.S.C. § 1692 et seq., 47 U.S.C. § 227

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<b>VII. REQUESTED IN COMPLAINT:</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 (See instructions):	<b>DEMAND \$</b> _____	CHECK YES only if demanded in Complaint: <b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b>	JUDGE _____	DOCKET NUMBER _____
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DATE <u>4/9/14</u>	SIGNATURE OF ATTORNEY OF RECORD <u>[Signature]</u>
FOR OFFICE USE ONLY RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____	

[Signature]

GP  
Address of Plaintiff: 8112 Verree Rd., B105, Philadelphia, PA 19111.

Address of Defendant: 8875 Aero Dr., Ste. 200, San Diego, CA 92123.

Place of Accident, Incident or Transaction: 8112 Verree Rd., B105, Philadelphia, PA 19111.  
(Use Reverse Side For Additional Space)

Does this case involve multidistrict litigation possibilities?

RELATED CASE, IF ANY: None.

Yes ☐ No ☒

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of factor grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☐ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☒ All other Federal Question Cases  
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability - Asbestos

9. ☐ All other Diversity Cases

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Robert P. Cocco, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 4/9/14 Robert P. Cocco  
Attorney-at-Law

61907  
Attorney I. D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/9/14 [Signature]  
Attorney-at-Law

61907  
Attorney I.D.#

APR - 9 2014

GP

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

WILLETTE HILL

: CIVIL ACTION

v.

: 14 2075

: NO.

MIDLAND FUNDING LLC et al.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2241 through §2255. ( )
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 8. ( )
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

4/9/14

(Date)



Attorney-at-law

ROBERT P. COCCO, ESQ.

Attorney for Plaintiff

APR - 9 2014

\$400

**GP**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

WILLETTE HILL,

Plaintiff,

:

: Civil Action No.: **14** **2075**

v.

:

MIDLAND FUNDING LLC.,

MIDLAND CREDIT MANAGEMENT, INC.

Defendants.

:

:

:

**COMPLAINT**

**A. Jurisdiction and Venue**

1. Jurisdiction arises under 15 U.S.C. § 227 et seq., 28 U.S.C. §§ 1331, 1337(a), together with the pendent jurisdiction of the court. Supplemental jurisdiction over Plaintiff's state law claims is granted by 28 U.S.C. § 1367(a). Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

2. Venue lies in this judicial district in that the events which gave rise to this claim occurred here and the property which is the subject of the action is situated within this district.

**B. Parties**

3. Plaintiff Willette Hill, is a natural person residing at 8112 Verree Rd., B105, Philadelphia, PA 19111.

4. Defendant MIDLAND FUNDING LLC ("Midland") is a corporation and wholly owned subsidiary of Encore Capital Group, Inc. with principal offices at 8875 Aero Dr., Ste. 200, San Diego, CA 92123. The principal purpose of Defendant Midland is the purchase or collection of defaulted debts using the mails and telephone.

5. Defendant MIDLAND CREDIT MANAGEMENT, INC. ("MCM") is a



corporation wholly owned subsidiary of Encore Capital Group, Inc. with principal offices at 8875 Aero Dr., Ste. 200, San Diego, CA 92123. The principal purpose of Defendant MCM is the collection of defaulted debts owned by Midland using the mails and telephone.

6. Midland and MCM (collectively referred to hereinafter as “Midland”) is, and at all times mentioned herein was, a corporation and a “person”, as defined by 47 U.S.C. §153(10).

**C. Factual Allegations**

7. Prior to the collection activity hereinafter described, plaintiff had an outstanding debt to Raymour & Flanigan financed by Wells Fargo (“the debt”).

8. Midland has called Plaintiff multiple times on her cell phones from telephone number (800) 237-0512, including but not limited to the seventy four (74) calls reflected in the screen captures from her cell phone attached hereto as Ex. “A”.

9. All telephone contact by MIDLAND described herein to plaintiffs’ cellular telephone occurred via an “automatic telephone dialing system” (ATDS) and/or system with ATD capacity, as defined by 47 U.S.C. §227(a)(1), and all calls that are the subject of this Complaint occurred within four years of the filing of this Complaint.

10. Neither plaintiff nor anyone else authorized by her ever authorized MIDLAND to call plaintiff on her cell phone number.

**D. Causes Of Action**

**COUNT I - NEGLIGENT VIOLATIONS OF  
THE TELEPHONE CONSUMER PROTECTION (ACT 47 U.S.C. § 227 et seq.)**

11. The allegations above are re-alleged and incorporated herein by reference.

12. The foregoing acts and omissions of defendant constitutes numerous

and multiple negligent violations of the TCPA, including but not limited to 47 U.S.C. § 227(b)(1)(iii) by each and every call in violation of the statute, pursuant to 47 U.S.C. § 227(b)(1)(B).

**COUNT II - KNOWING AND/OR WILLFUL VIOLATIONS OF THE  
TELEPHONE CONSUMER PROTECTION ACT, 47 U.S.C. § 227 et seq.**

13. The allegations above are re-alleged and incorporated herein by reference.

14. The foregoing acts and omissions of Defendant constitutes numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to 47 U.S.C. § 227(b)(1)(iii) by each and every call in violation of the statute, pursuant to 47 U.S.C. § 227(b)(1)(B).

15. “Willful” is defined as “the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any . . . rule or regulation of the Commission . . . .” 47 U.S.C. § 312 (f)(1).

16. Defendant intentionally and voluntarily made at least sixty six (66) calls to plaintiff’s cell phone.

**COUNT III  
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT  
15 U.S.C. § 1692 et seq.**

17. The allegations above are re-alleged and incorporated herein by reference.

18. The foregoing acts and omissions of Defendant ACT constitute numerous and multiple violations of the FDCPA including, but not limited to:

- (a) §1692d, Engaged in conduct the natural consequence of which is to harass, oppress, or abuse a person by continually calling a non-party to the debt, plaintiff Mr. Toussaint;
- (b) §1692d, Engaged in conduct the natural consequence of which is to harass, oppress, or abuse a person insofar as both debtors are paying their student loan debts under a rehabilitation schema;

- (c) §1692 b(1), Contacted third parties and failed to state that collector is confirming or correcting location information;
- (d) §1692c(b), Contacted third parties other than consumer, consumer's attorney, or credit bureau concerning the debt;

19. As a result of each and every Defendant's violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from each and every Defendant herein.

#### **TRIAL BY JURY**

20. Plaintiff is entitled to and hereby respectfully demands a trial by jury. US Const. amend. 7. Fed.R.Civ.P. 38.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that judgment be entered against each and every Defendant:

- A. for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against each and every Defendant and for each Plaintiff;
- B. for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against each and every Defendant and for each Plaintiff;
- C. for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against each and every Defendant and for Plaintiff;
- D. for defendants' negligent violations of 47 U.S.C. §227(b)(1), \$500.00 in statutory damages for each and every call that violated the TCPA, pursuant to 47 U.S.C. §227(b)(3)(B);

- E. for defendants' willful and/or knowing violations of 47 U.S.C. § 227(b)(1), up to \$1,500.00 for each and every call that violated the TCPA, pursuant to 47 U.S.C. § 227(b)(3)(B);
- F. for such other and further relief as may be just and proper.

Dated: April 8, 2014

RC935

ROBERT P. COCCO, P.C.

Attorney for Plaintiff

By: Robert P. Cocco, Esquire

Pa. Id. No. 61907

1500 Walnut Street, Suite 900

Philadelphia, PA 19102

(215) 351-0200

**Attorney for Plaintiff**